

21 C.J.S. Courts § 112

Corpus Juris Secundum | May 2023 Update

Courts

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III. Creation and Constitution; Officers of Courts

A. Creation, Organization, and Abolition of Courts

1. In General

§ 112. Power of Congress as to state courts

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Although Congress has no power to create or regulate state courts, it may authorize state courts to enforce a cause of action created by federal act; but Congress cannot require that state courts take cognizance of such actions.

Strictly speaking, Congress cannot confer judicial power¹ or impose a judicial duty² on state courts. Congress cannot create,³ define,⁴ or enlarge⁵ their jurisdiction, nor regulate or control their modes of procedure⁶ or the remedies available therein under state statutes.⁷

Nevertheless, when acting within its constitutional powers, Congress may control and regulate the power of the several states to provide for the determination of controversies in their courts.⁸ It may not restrict such power except in conformity to the judiciary sections of the Federal Constitution.⁹ Congress may authorize state courts to enforce a cause of action created by a federal act¹⁰ where the

jurisdiction of the state courts, under the local law, is adequate to the occasion.¹¹ When Congress does so, it adopts the prevailing rules of procedure in the state.¹²

The mere fact, however, that Congress declares that state courts shall have concurrent jurisdiction of a particular cause of action does not require that they shall take cognizance of such actions,¹³ nor does it exempt a citizen of any state from the equitable jurisdiction of its courts to restrain the bringing of such an action in another state.¹⁴ Congress cannot appoint a judge to a state court, much less create a state court and appoint a judge to administer it.¹⁵

The power of Congress to confer judicial power on state courts, apart from the duty of such courts to accept or exercise the power thus conferred, is grounded on the theory that the provisions of the Federal Constitution vesting judicial power as to certain classes of cases in designated courts of the United States did not prohibit Congress from vesting judicial power as to other cases in other courts or magistrates where the exercise of such power is an appropriate means by which to use the powers granted to the legislative department of the government.¹⁶

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Footnotes

1 U.S.—[Ex parte Crandall](#), 52 F.2d 650 (S.D. Ind. 1931), aff'd, [53 F.2d 969](#) (C.C.A. 7th Cir. 1931).

Mo.—[Ex parte Gounis](#), 304 Mo. 428, 263 S.W. 988 (1924).

2 Conn.—[In re Fordiani](#), 98 Conn. 435, 120 A. 338 (1923).

3 Ind.—[McConnell v. Thomson](#), 213 Ind. 16, 8 N.E.2d 986, 113 A.L.R. 1429 (1937).

4 Tenn.—[Tennessee Downs, Inc. v. William L. Gibbons](#), 15 S.W.3d 843 (Tenn. Ct. App. 1999).

5 U.S.—[Ex parte Crandall](#), 52 F.2d 650 (S.D. Ind. 1931), aff'd, [53 F.2d 969](#) (C.C.A. 7th Cir. 1931).

6 Mo.—[Ex parte Gounis](#), 304 Mo. 428, 263 S.W. 988 (1924).

7 N.Y.—[Ruddy v. Morse Dry Dock & Repair Co.](#), 107 Misc. 199, 176 N.Y.S. 731 (Sup 1919).

8 U.S.—[U.S. Nat. Bank of Omaha, Neb. v. Pamp](#), 77 F.2d 9, 99 A.L.R. 1370 (C.C.A. 8th Cir. 1935).

9 U.S.—[Healy v. Ratta](#), 292 U.S. 263, 54 S. Ct. 700, 78 L. Ed. 1248 (1934).

10 Ind.—[McConnell v. Thomson](#), 213 Ind. 16, 8 N.E.2d 986, 113 A.L.R. 1429 (1937).

11 U.S.—[Ex parte Crandall](#), 52 F.2d 650 (S.D. Ind. 1931), aff'd, [53 F.2d 969](#) (C.C.A. 7th Cir. 1931).

12 Ga.—[Central of Georgia Ry. Co. v. Jones](#), 152 Ga. 92, 108 S.E. 618 (1921).

13 U.S.—[Ex parte Crandall](#), 53 F.2d 969 (C.C.A. 7th Cir. 1931).

Mo.—[Ex parte Gounis](#), 304 Mo. 428, 263 S.W. 988 (1924).

14 U.S.—[Ex parte Crandall](#), 53 F.2d 969 (C.C.A. 7th Cir. 1931).

Ind.—[McConnell v. Thomson](#), 213 Ind. 16, 8 N.E.2d 986, 113 A.L.R. 1429 (1937).

15 La.—[Mechanics' & Traders' Bank v. Union Bank of La.](#), 89 U.S. 276, 22 L. Ed. 871, 1874 WL 17403 (1874).

16 Okla.—[State v. Huser](#), 1919 OK 218, 76 Okla. 130, 184 P. 113 (1919).

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